

STATEMENT OF MRS. LORRAINE CALDAROLA TO THE SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON BANKING
AND FINANCIAL SERVICES.

Good Morning.

My name is Mrs. Lorraine Caldarola and I presently reside with my husband and family in Spring Hill, Florida. Although a native of Brooklyn, N.Y., I have lived in Florida with my family since 1987. I would have enjoyed being here in person, but circumstances are such that I cannot be. However I am giving my permission to Assistant D.A. Kelley to read my statement into the record.

By way of background, my Mother (Josephine Nicotra) lived in Brooklyn until late 1996. In December of that year she came to my home for a pre-arranged Xmas visit. I had not seen her for two years and was shocked at her physical appearance. She was then 83 years old and in bad physical shape. She appeared to be sick and was incontinent. Her legs were so swollen that she could barely walk. Her teeth were visibly rotting in her mouth and she appeared to be in a dazed condition. She was later diagnosed as being in the early stages of Alheimers Disease and was suffering from untreated diabetes. I took her into my home, saw that she received proper medical and dental treatment and eventually nursed her back to reasonably decent health. Because of her condition and the fact that my brother was not properly caring for her welfare in N.Y., she remained in Florida. Today, she lives in a nearby assisted living facility where I can visit her frequently.

While making arrangements to place my Mother in an assisted living facility I had to gather information about my Mother's finances. When I called her Bank to inquire about her accounts they would not give me any information because my name was not on any of the accounts. I telephoned my brother and inquired about her savings so they could be used on her behalf. He answered "She has no money- Sell the house", cursed me, and hung up. I was shocked at this answer because I knew that when my Father died in 1993 he left her a fairly large sum of money to my Mother. I suspected then that my brother had been and was presently taking financial advantage of my Mother because of her weakened condition.

I called the Bank which is located in Brooklyn a number of times and while they were polite they were of no help whatever except to advise me to get a lawyer. My predicament was as follows: Without the passbook, the Bank would not permit a withdrawal of funds. If I wanted to report the passbook missing, lost or stolen, the Bank required the signatures of both my Mother and my brother, something my brother would not do. Finally, I could not afford to hire a lawyer to bring a lawsuit. I was desperate and called every Agency that I could think of in N.Y. for help. I finally was referred to the Brooklyn District Attorney's Office where an

Assistant D.A. advised me that he would try to help me and my Mother. I gave him all of the pertinent information and the very next day he called me back confirming the fact that my brother had been making large withdrawals and furnishing me with dates and the amounts withdrawn. I was shocked to learn that her savings account was down to \$8800 from over \$100,000 a few years earlier; that during a 13 month period preceding December 1996, my brother had withdrawn \$42,500 from the account without my Mother's knowledge or consent. There was also a joint CD for \$13,000. that was coming due in a few months. I was concerned that my brother might close both accounts thereby depriving my Mother of everything.

The first thing I was advised to do by the Assistant D.A. was to "freeze" the accounts officially so that my brother could not withdraw any more funds. I was told exactly what to put in the letter for my Mother's signature as well as how the letter should be mailed so as to comply with N.Y. law. The letter was mailed promptly by me and the accounts were "frozen" immediately which made my brother very angry. He absolutely refused to send the passbook or sign any withdrawal slips for my Mother.

Following the entry of the D.A. into the case, things began to move rapidly. From the very beginning of my contact with the Brooklyn D.A.'s Office, I felt that they were the people who could help me and my Mother. Up until that time, no one had offered any help and living in Florida did not help the situation in any way.

Preliminary investigation by the Assistant D.A. confirmed that bank records showed that in the 13 month period prior to my Mother's arrival at my home, my brother had withdrawn \$42,500 from my Mother's account despite the fact that the money belonged to my Mother. My brother never contributed anything to the account. Earlier bank records were not available because the present bank had "taken over" the former bank a year or so earlier.

The Assistant D.A. immediately contacted my brother who refused to talk about the matter unless his lawyer was present. The Assistant D.A. immediately contacted the lawyer and a meeting was held at my brother's lawyers office at which my brother, his wife, their lawyer and two Assistant D.A.'s were present.

I don't know how the D.A.'s Office did it or what they said to my brother and his lawyer but within three days of this meeting, my brother sent the two bankbooks with signed withdrawal slips to my Mother. So after weeks of arguing with him to send her the money, she finally received what was left of her life savings-about \$20,000- not much but better than nothing. I know that without the D.A.'s intervention in this case, my Mother would have lost everything. We both are deeply appreciative of the D.A.'s help. In fact I wrote Mr. Hynes a letter of thanks for his assistance.

During follow-up talks with the Assistant D.A. assigned, I was informed that my brother was removing money from my Mothers account and placing it into a Trust Fund for himself and his family. I was


also advised that the Trust Agreement provides that any income on the Trust is to be paid to my Mother during her life time. She has never received as much as a dollar from this Trust despite repeated demands to my brother for payment. I can only guess how much money my brother took from my Mother because once the D.A.'s Office established that he was taking money from a "joint account", they could not pursue a criminal investigation. Apparently the law in N.Y. is either party can withdraw part or all of any monies from a joint account. I estimate he got away with over \$100,000 of my Mother's life savings.

I am informed that N.Y.State banks have the authority to offer a convenience account, an account in which the primary depositor always retains title to the funds on deposit. While the other party to the account can access the funds, he can only do so for the convenience of the primary depositor or the owner of the funds. I also understand that most N.Y. banks do not offer convenience accounts although they are authorized to do so.

Had my Mother's savings been in a convenience account as opposed to a joint account , I am advised that the Brooklyn District Attorney would have been in a position to prosecute him for larceny of my Mother's money. Neither my Mother nor I want to see my brother in jail. What we both seek is a return of the funds so that my Mother can live out the rest of her days with dignity, comfort and self-respect.

Based on my experience and that of my Mother, I respectfully urge this Committee to take whatever action it can to require all banks throughout the Country to offer convenience accounts for the protection of the elderly.

Thank you for your attention.


Lorraine Caldarola

Sworn to before me this

26 day of April 1999

FLORIDA DRIVER LICENSE SHOWN AS
IDENTIFICATION


Carol Rohrbacher

